

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7628

Joint Petition of Green Mountain Power Corporation,)
Vermont Electric Cooperative, Inc., and Vermont)
Electric Power Company, Inc. for a certificate of public)
good, pursuant to 30 V.S.A. Section 248, to construct up)
to a 63 MW wind electric generation facility and)
associated facilities on Lowell Mountain in Lowell,)
Vermont, and the installation or upgrade of)
approximately 16.9 miles of transmission line and)
associated substations in Lowell, Westfield and Jay,)
Vermont)

Order entered: August 12, 2011

ORDER RE COMPLETION OF ARCHAEOLOGICAL STUDIES

INTRODUCTION

On May 31, 2011, the Public Service Board ("Board") issued an Order (the "Order") and Certificate of Public Good ("CPG") in this docket approving, subject to certain conditions, the construction and operation of the proposed wind electric generating facility. Among other things, the Order requires the Petitioners to make a number of post-certification compliance filings. On August 2, 2011, Green Mountain Power Corporation ("GMP") filed its demonstration that the remaining archaeological studies were completed in compliance with Condition 28, as revised by the Board's July 12, 2011, Order. Pursuant to an August 4, 2011, Memorandum from the Board Clerk's Office, parties with standing on this issue were given until August 10, 2011, to file comments on GMP's August 2, 2011, filing. On August 10, 2011, the Vermont Division of Historic Preservation ("VDHP") filed comments on GMP's August 2, 2011, filing. No other party filed comments.

For the reasons set forth below, in this Order we approve GMP's August 2, 2011, compliance filing.

DISCUSSION

Condition 28 of the CPG, as revised by Board Order dated July 12, 2011, states:

The Petitioners shall have three weeks from the time that they obtain access to all archaeologically sensitive areas, whether by landowner consent or by condemnation decree, to file for Board approval a demonstration that remaining archaeological studies are completed in accordance with the results of the Phase I studies and any needed Phase II study. No earth disturbing activities may take place in any such area until after the required studies are completed and the demonstration has been filed with and approved by the Board.¹

GMP's demonstration of compliance consists of an End-of-Field Letter for the Archaeological Phase I Site Identification Survey for the proposed project, drafted by the University of Vermont Consulting Archaeology Program ("UVM CAP"). According to the UVM CAP letter, no evidence of Precontact-era Native American cultural material or significant historical resources were identified in any of the tested sensitive areas. However, testing was not performed in two pole tear out locations that were identified as sensitive. Instead, according to the UVM CAP letter, GMP and VDHP have agreed to a process where pole tear outs in these locations will occur only under frozen ground conditions and under the supervision of a professional archaeologist. According to the UVM CAP letter, supervised pole tear out during frozen ground conditions ensures that no ground disturbance will occur that might impact potentially present but as yet unidentified cultural resources. Provided GMP complies with the agreement with VDHP, the UVM CAP letter concludes that no additional archaeological studies are required in the project area.

On August 10, 2011, VDHP filed comments on GMP's filing. VDHP states that GMP has completed all required archaeological studies for the project, provided that pole removal activity for existing poles JVT #48, JVT #80 XA, JVT #81 and JVT #82 along Vermont Electric Cooperative, Inc's. 34.5 kV line in Westfield, Vermont, is monitored by a qualified archaeological consultant, with pole removal occurring under frozen ground conditions if possible. VDHP notes that frozen ground conditions do not necessarily occur each winter due to depth of snow cover and other conditions. Accordingly, VDHP states that, in the event frozen

1. Docket 7628, Order of 7/12/11 at 16.

ground conditions do not occur, pole removal may proceed at the discretion of the qualified archaeological consultant as long as no ground disturbance occurs due to the presence of snow cover sufficient to protect the ground surface, or by use of protective matting in all or portions of the necessary access right-of-way. VDHP also states that any subsequent design changes, including new pole locations or additional project components, should be subject to additional archaeological review.

We conclude that GMP has demonstrated compliance with Condition 28, as revised by our July 12, 2011, Order, provided that it complies with the agreement with VDHP regarding pole tear outs in two sensitive locations occurring only under frozen ground conditions if possible, and under the supervision of a qualified professional archaeologist. Based on VDHP's comments, we conclude that GMP will be in compliance with its obligations if frozen ground conditions do not occur, and the supervising archaeologist determines the poles can be removed without ground disturbance due to sufficient snow cover or the use of protective matting in the access right-of-way.

CONCLUSION

Based on our review of the UVM CAP letter and the comments filed by VDHP, we conclude that GMP has demonstrated compliance with Condition 28, as revised by our July 12, 2011, Order, provided that it conducts pole tear outs in the identified sensitive locations consistent with its agreement with VDHP, as well as the comments filed by VDHP on August 10, 2011. In the event there are any changes in the design plans, including new pole locations or additional project components, additional archaeological review will be required to examine the potential for impacts from any such changes.

SO ORDERED.

Dated at Montpelier, Vermont, this 12th day of August, 2011.

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| <u>s/James Volz</u> |) | |
| |) | PUBLIC SERVICE |
| |) | |
| <u>s/David C. Coen</u> |) | BOARD |
| |) | |
| |) | OF VERMONT |
| <u>s/John D. Burke</u> |) | |

OFFICE OF THE CLERK

FILED: August 12, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.